

REMARKS

By this paper, Claims 1, 3, 5, 6, 21, 22, 24 and 25 have been amended. Claims 4 and 23 have been canceled. Claims 7 and 26 were previously canceled. Hence, Claims 1-3, 5-6, 8-22, 24-25, and 27-36 remain pending and are presented for further examination.

A. Claims 1-3, 5-6, 8-22, 24-25, and 27-36, as amended, are Patentable in View of Herz

On appeal to the Board of Patent Appeals and Interferences (the "Board"), the rejection of Claims 1-6, 16-18, 21-25, 31-33, 35 under 35 U.S.C. § 102(b) in view of U.S. Pat. No. 5,754,938 to Herz, et al ("Herz") was affirmed. The rejection of Claims 8-15, 19-20, 27-30 and 34 as being obvious under § 103(a) in view of Herz and Official Notice was not affirmed but was instead replaced by a new grounds for rejection over Herz under § 103(a). According to the new grounds for rejection, Claims 8-15, 19-20, 27-30 and 34 are not patentably distinct from Herz. By this paper, Applicant has amended independent Claims 1 and 21 to include subject matter of Claims 4 and 23. For the reasons set forth below, Applicant respectfully submits that pending Claims 1-3, 5-6, 8-22, 24-25, and 27-36, as amended, are patentable in view of Herz.

Claim 1, as amended, recites a system comprising an "aggregating application" adapted to:

receive at the aggregating application, additional message data from at least one of said plurality of reception devices, wherein said additional message data from said reception device comprises at least one of additional response message data or additional original message data;

aggregate said additional message data with said aggregated message and response message data;

determine whether at least one of said remote information systems contains information relating to a topic of said additional message data; and

provide the additional message data to the at least one of said remote information systems based on the determination that said at least one of said plurality of remote information systems contains information relating to a topic of said additional message data.

Support for these amendments can be found, for example, in canceled Claims 4 and 25 and the specification at page 11, lines 4-27, Figure 7, and page 14, line 18 - page 15, line 9. As discussed below, Claim 21, while varying in scope from Claim 1, has also been amended to recite similar features.

In contrast, the system of Hertz merely identifies information (news items, etc.) of interest to a user based on a target profile. *Herz*, abstract. In particular, Herz discloses a system in which profile specific data from a profile module 203 of a proxy server S2 is provided to users logged into client processor c1. *See, Herz*, Figures 2 and 10, col. 57, lines 4-31. However, Herz fails to disclose that its “profile module” is adapted to receive “*at the aggregating application*, additional message data and additional original message data from at least one of said plurality of reception devices” as recited by Claim 1. Neither the Examiner in prior actions, nor the Board, cites any specific portion of Herz as disclosing this feature. Rather, in confirming the rejection of now-canceled dependent Claims 4 and 23, the Board opined that

Herz discloses users writing additional messages and posting them to the virtual communities of their choice, which are located on remote information systems. The users would write such additional messages from reception devices. These additional messages would then be aggregated due to their posting on the remote information systems.

Decision on Appeal, page 7, line 26 – page 8, line 5. However, this reasoning is inapposite to Claims 1 and 21, as amended. In particular, Claim 1 recites “*an aggregating application* [] configured to [] receive at the aggregating application, additional message data from at least one of said plurality of reception devices” and not “*remote information systems*” adapted to receive such message data from reception devices. Similarly, Claim 21, as amended, recites “receiving *at* the aggregating application additional message data and additional original message data *from* at least one of said plurality of reception devices” and not receiving such data at the “*remote information systems*.”

As discussed in the specification, receiving “additional message data” as recited in Claims 1 and 21 “allows the additional reception devices to view message data that was previously post[ed] on anyone of the plurality of remote information systems, *as well as* message data that was previously posted *on* the aggregated information system.” *Specification*, page 4, lines 10-13 (emphasis added). In contrast, Herz fails to disclose posting on other than particular “virtual communities.” Hence, as disclosed by Herz, in order to post a message, a user selects and posts directly to “core servers” of a particular “virtual community” not to an aggregation application. *Herz*, col. 78, lines 4-29.

Furthermore, Claim 1, as amended, recites the aggregating application being configured to “determine whether at least one of said remote information systems contains information relating to a topic of said additional message data; and provide the additional message data to the at least one of said remote information systems based on the determination that said at least one of said plurality of remote information systems contains information relating to a topic of said additional message data” Claim 21, as amended, recites a method comprising “determining whether at least one of said remote information systems contains information relating to a topic of said additional message data; and providing the additional message data to the at least one of said remote information systems based on the determination that said at least one of said plurality of remote information systems contains information relating to a topic of said additional message data” Initially, Applicant notes this newly recited feature of Claims 1 and 21, as amended, has not previously been addressed by either the Board or the Examiner. Applicant respectfully submits that Herz also fails to disclose or suggest these additional features recited by Claims 1 and 21. Rather, as discussed above, Herz merely discloses that users post directly to “core servers” of a particular “virtual communication.” Hence, not only does Herz fail to disclose these additional features of Claims 1 and 21, there would be no reason to add such features to Herz as the user would already have posted to a particular virtual community such that there would be no reason for Herz to “provide the additional message data to the at least one of said remote information systems based on the determination that said at least one of said plurality of remote information systems contains information relating to a topic of said additional message data.”

Accordingly, Applicant respectfully submits that Herz fails to anticipate Claims 1 and 21 as amended at least because Herz fails to teach or render obvious the features discussed above. As each of Claims 1-3, 5-6, 8-22, 24-25, and 27-36 depend from one of Claims 1 and 21, Applicant respectfully submits that Herz also fails to anticipate or render obvious each of these claims for at least the same reasons. Accordingly, Applicant respectfully requests withdrawal of the rejections in view of Herz.

B. No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather,

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any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

C. Conclusion

In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that can be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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